

(2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;

(3) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and

(4) Means "individual with handicaps", as defined in §8.3 of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

[61 FR 5665, Feb. 13, 1996, as amended at 63 FR 23853, Apr. 30, 1998; 65 FR 16715, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16715, Mar. 29, 2000, §5.403 was amended by removing paragraph (a), by removing the introductory text of paragraph (b) along with the paragraph designation, by revising the definitions of "disabled family" and "elderly family", and by adding the definition of "person with disabilities", effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 5.403 Definitions.

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Disabled family means a family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

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Elderly family means a family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

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§ 5.405 Basic eligibility; preference over single persons; and housing assistance limitation for single persons.

(a) *Basic eligibility.* An applicant must meet all of the eligibility requirements of the housing assistance for which an application is made in order to obtain the housing assistance. At a minimum, the applicant must be a family, and must be income-eligible. Eligible appli-

cants include single persons who are not elderly persons, or displaced persons, or persons with disabilities.

(b) *Preference over single persons.* An applicant that is a one- or two-person elderly, disabled or displaced family, must be given a preference over an applicant that is a single person who is not an elderly or displaced person, or a person with disabilities, regardless of the applicant's Federal or local preferences.

(c) *Housing assistance limitation for single persons.* A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family may not be provided:

(1) For public housing and other project-based assistance, a housing unit with two or more bedrooms; or

(2) For tenant-based assistance, housing assistance for which the family unit size as determined by the HA subsidy standard exceeds the one bedroom level.

(d) This section shall not apply to the Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals set forth at 24 CFR part 882, subpart H.

[61 FR 5665, Feb. 13, 1996, as amended at 61 FR 13616, Mar. 27, 1996]

EFFECTIVE DATE NOTE: At 65 FR 16716, Mar. 29, 2000, §5.405 was removed, effective Apr. 28, 2000.

§ 5.410 Selection preferences.

(a) *Applicability.* The selection preferences that are described in this part are applicable to public housing and housing assisted under the Section 8 Housing Assistance Payments program. (Corresponding provisions applicable to the Indian housing program are found in 24 CFR part 950.) These preferences are administered by the entity responsible for admission functions in the programs covered ("responsible entity"), i.e., the public housing agency ("HA") in the public housing and Section 8 Certificate/Voucher and Moderate Rehabilitation programs and the owner in all other Section 8 programs.

(b) *Types of preference.* There are three types of admission preferences:

(1) "Federal preferences" are admission preferences for three categories of